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February 11, 1977

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The Honorable A. V. "Bill" Hardt
Arizona State Senator
Senate Wing
1700 West Washington
Phoenix,, Arizona 85007

Re: 77-33 (R77-19)

Re: Superior Volunteer Fire District Monies for FY 1976-77

Dear Senator Hardt:

In a recent telephone conversation with a member of this office, you indicated that you would like us to answer the following question:

Does A.R.S. § 9-1005 require a board of supervisors to remit to a volunteer fire district a sum equal to 1.2% of the value of all vehicles registered within the boundaries of such district from a county's general revenues raised from a county-wide source, or may the board of supervisors require the volunteer fire district to levy a tax on district property only to generate such sum?

Volunteer fire companies were first provided for under provisions of Ch. 69, Session Laws of 1913, and volunteer fire district legislation has continued in effect since then. The purpose of such legislation is to provide for fire protection at public expense to residents of well-settled areas outside the protection of municipal fire departments. See Frye v. South Phoenix Volunteer Fire Co. 71 Ariz 163, 168 (1950).

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1. Volunteer fire company statutes now are found in A.R.S. §§ 9-1001 through 1010.

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The annual expense of such protection is to be borne initially, under subsection A. of A.R.S. § 9-1005, by a county contribution to each volunteer fire district's fund. That provision, which imposes an absolute duty upon the board of supervisors to contribute a specific sum to each volunteer fire district's fund, states:

The board . . . shall ascertain the value of all vehicles registered between January 1 and July 1 . . . from within the boundaries of the territory described in the order. . . authorizing the organization of a volunteer fire district, and. . . shall pay into the. . . district fund. . . an amount equal to one and two tenths per cent of such value.

See also Frye v. South Phoenix Volunteer Co., supra, 71 Ariz. at 171, which held that a board of supervisors-- under the predecessor of A.R.S. § 9-1005 A--had no authority to withhold payment of the aforementioned amount from a volunteer fire district.

In other words, though the county payment is measured by the value of vehicles within the district, the payment itself must be made from a county-wide source. It is only when the amount so paid into the district fund, together with the remaining surplus, if any, in the district's fund, are insufficient to pay for the district's anticipated equipment and maintenance expenditures for the ensuing year that recourse also must be had to another source. In that event, subsections B, C and D of A.R.S. § 9-1005,² read together,

2. These subsections read as follows:

B. Not more than ten days after the perfection of the organization of a volunteer fire district, and thereafter not later than July 10 of each year, the chief and the secretary-treasurer of the district or if there is a district board, the chairman

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require the county board of supervisors to levy a tax upon all property appearing on the district's assessment roll to make up for the difference between

a. the district's anticipated expenditures and

b. the county payment to the district plus the available surplus, if any, in the district's volunteer fire district fund.

The tax levy is limited, by subsection C, to 1.2% of the taxable valuation of the property.

Footnote 2 continued

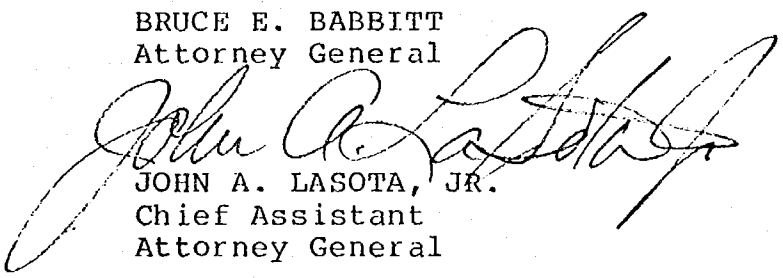
of such board shall submit to the board of supervisors an estimate, certified by items, of the amount of money required for the equipment and maintenance of the district for the ensuing year, less the amount derived from the county as provided by subsection A of this section. The estimate may also include amounts necessary to pay the reasonable value of organizational and legal services and expenses rendered or paid by others in the fiscal year immediately prior to the fiscal year for which the estimate is submitted, if the district has in advance expressly authorized or has after the fact expressly ratified such services or expenses, except the district may not pay more than a total of one thousand five hundred dollars for such services or expenses in any one fiscal year.

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If you have any questions concerning the foregoing,
please let us know.

Sincerely yours,

BRUCE E. BABBITT
Attorney General



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Chief Assistant
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C. The board shall approve or modify the estimate, and shall levy a tax, not to exceed twenty mills on each dollar of taxable valuation, against all property situated within the boundaries of the territory described in the order of the board authorizing the organization of the district and appearing upon the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time, and by the officers provided by law for the collection of state and county taxes.

D. The county treasurer shall keep the money received from such taxes in a separate fund known as the "Volunteer Fire District Fund" of the town or settlement for which collected. Any surplus remaining in the fund at the end of the fiscal year shall be credited to the "Volunteer Fire District Fund" of the town or settlement for which collected for the succeeding fiscal year.